

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.860 OF 2005

IN

SUIT NO.2028 OF 1993

Sami A. Kungle. ... Plaintiff

vs.

1. Tilak V. Amin & others. ...Defendants.

Mr.A.P.Rege, for Plaintiff..

Ms.Kranti Hiwarale i/b. P.G.Lad, for Defendant no.3.

CORAM: D.K.DESHMUKH,J.

DATED: 5th October,2006

P.C.:-

1. This is a notice of motion taken out by the plaintiff for appointment of Court Receiver and for grant of injunction in relation to flat no.A/19. According to the averments in the plaint, the plaintiff was dispossessed by the defendant no.1 from the flat in October,1989. The suit has been filed in the month of October,1992. The explanation

that is given for not filing suit immediately and not applying for appointment of receiver is that in a suit that was filed by the defendant no.2 this Court has appointed Receiver. According to the averments in the plaint, by order made in that suit so far as flat no.A/19 is concerned, the Receiver was directed to take possession of the flat from defendant no.1. It is not clarified as to whether presently the flat is in possession of the Receiver, it is also not clarified as to whether the Receiver handed over possession of the flat to any agent, if that is so who was the agent of the Receiver. A reference is made to the order passed by this Court in Notice of motion no.1106 of 1990 in Short Cause Suit no.1815 of 1989 dated 18.6.1992. That order shows shows that the Receiver was appointed on the entire property. It does not refer specifically to Flat no.A/19. The order also does not show that the Receiver was directed to take possession of that flat. According to the plaintiff, the suit in which the Receiver is appointed is already dismissed. Obviously, therefore, the Receiver does not continue. There are no averments made to show as to what happened after the Receiver ceased to be Receiver of the property. It is clear that the plaintiff has not disclosed full facts the plaintiff it appears is concealing relevant facts from the Court. In this view of the matter therefore, the plaintiff is not entitled to any interim relief. The notice of motion is disposed of.